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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,339	08/20/2003	Girma Gebreselassie	998-904IP	5860
20792	7590	02/09/2005	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			BLANKENSHIP, GREGORY A	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/644,339

Applicant(s)

GEBRESELASSIE ET AL.

Examiner

Greg Blankenship

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-15, 17-24 and 27-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-15, 17-24 and 27-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7-9, 12, 17, 18, 21, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell (6, 092,854).

Campbell discloses a dash insulator substrate (4) having an opening (56) and a pass-through assembly (44). The pass-through assembly (44) has a surface that is in a face-to-face relationship with the opening (56) of the substrate (4). The opening (56) in the substrate corresponds to an opening (58) in the firewall (17). The substrate (4) is in a face-to-face contacting relationship with the firewall (17). The pass-through assembly (44) is sealed against the firewall (17), as shown in Figure 5. The pass-through assembly (44) has several apertures to receive items that extend through the openings in the firewall and the substrate. While not shown, an instrument panel is attached to the dash insulator substrate (4). A carpet floor covering is attached to the substrate (4). Sound attenuating material (18) is applied to areas of the substrate. Since the substrate (4) is an elastomeric material, it is capable of flexing such that it can move relative to both an instrument panel and a floor covering.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 19, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (6,092,854).

Campbell does not disclose a variation in thickness of the sound attenuating material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the sound attenuating material of Campbell with at least two regions of differing thickness to provide the optimum sound attenuation for the particular model of vehicle.

5. Claims 11, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (6,092,854).

Campbell does not disclose the claimed material.

Polyurethane is a known sound attenuating material that is commonly used in the automotive industry.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use polyurethane as the sound attenuating material in Campbell to provide the desired sound attenuating characteristics.

6. Claims 2, 3, 13, 14, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (6,092,854) in view of Sakurai et al. (5,120,106).

Campbell does not disclose the claimed brake assembly.

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Sakurai et al. teach a brake assembly that includes a brake pedal (25), attached to one side of a substrate (42), which is connected to a brake master cylinder (27), attached to the other side of substrate (42), through an aperture in the substrate (42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to attach a brake assembly to the substrate of Campbell, as taught by Sakurai et al., such that the brake pedal is attached to one side of the substrate and the master cylinder is attached to the other side of the substrate, the two being interconnected via one of the apertures in the pass-through assembly of Campbell, to efficiently and accurately mount the brake assembly to increase product quality and decrease manufacturing time.

7. Claims 4, 15, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of references, as applied to claims 2, 3, 13, 14, 22 and 23, in view of Umeda et al. (5,082,078).

Campbell, as modified, does not disclose an accelerator pedal as claimed.

Umeda et al. teach the combination of an accelerator pedal assembly (72) with a brake assembly (14,15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine an accelerator pedal assembly with the brake assembly, of Campbell as modified, as taught by Umeda et al. resulting in an accelerator pedal assembly with a pedal attached to the first side of substrate and a linkage extending through an aperture in the pass-through assembly to efficiently and accurately mount the accelerator pedal assembly to increase product quality and decrease manufacturing time.

### *Response to Arguments*

8. Applicant's arguments filed 12/28/2004 have been fully considered but they are not persuasive. The applicant has argued that the substrate of Campbell is not attached to an instrument panel. The examiner disagrees with this argument. The substrate is indirectly connected to the instrument panel by the pass-through assembly, which is connected to the steering column (column 4, lines 1-4). The connection between the steering column and the instrument panel is an inherent feature since this is standard practice in the industry.

### *Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is (703) 305-0223.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**Or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**or:**

(703) 746-3511, (for informal or draft communications, please clearly label "FOR DISCUSSION PURPOSES ONLY", "PROPOSED" or "DRAFT")

gab  
February 3, 2005

A handwritten signature in black ink, appearing to be "D. Glenn Dayoan", followed by the date "2/7/05".

D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600